TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 868 - SB 816

March 23, 2021

SUMMARY OF BILL: Requires the chief administrative officer of the Division of Employment to annually increase the weekly unemployment benefit amounts to reflect inflation, as measured by the United States Bureau of Labor Statistics consumer price index or, if that index ceases to exist, another index adopted by such officer.

Removes one requirement that must be met in order to waive repayment of overpaid unemployment benefit overpayments.

Requires the Department of Labor and Workforce Development (DLWD) to examine and determine a claim for unemployment insurance benefits with 14 days of receipt of any such claim. Additionally, requires a representative of the DLWD to given written notice of a nonmonetary determination, along with the factual and legal reasons supporting it, within three business days of the determination being made. Requires any monetary benefits be paid within three business days of any final determination being made.

Requires such officer to annually increase unemployment insurance premiums in relation to increases made to weekly benefit amounts in order maintain the solvency of the Unemployment Insurance Trust Fund (Fund).

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - $5,961,700/FY21-22/General Fund
$5,577,700/FY22-23 and Subsequent Years/
General Fund

Other Fiscal Impact – This legislation will impact revenue to and expenditures from the Unemployment Insurance Trust Fund. Due to multiple unknown variables, the timing and extent of such impacts cannot be quantified with reasonable certainty.

Assumptions:

- Currently, pursuant to Tenn. Code Ann. § 50-7-303(d), a person has liability to repay overpaid unemployment benefits, unless a written request is submitted and all of the following conditions exist:
    - The overpayment was not due to fraud, misrepresentation or willful nondisclosure on the part of the person;

  - The overpayment was received without fault on the part of the person; and
  - The recovery of the overpayment from the person would be against equity and good conscience.
- This legislation will remove the third condition that must be met.
- This legislation will require the Department of Labor and Workforce Development (DLWD) to hire additional positions to meet the expedited deadlines imposed by this legislation.
- Based on information from the DLWD, it will require 50 new claims agents, 40 new adjudicators, 8 program specialists, 10 new unemployment account auditors, 4 unemployment security managers, and 8 unemployment account supervisors.
- This legislation will result in an increase in recurring state expenditures of $5,577,660 (salaries $3,965,472 + benefits $1,468,188 + communications $120,000 + supplies $24,000) and one-time state expenditures of $384,000 [(office furniture $2,000 + computers $1,200) x 120 positions].
- Based on information provided by the DLWD, overpayments due to agency error range from $5,000,000 to $6,000,000. Despite the number of new positions, this legislation is estimated to result in an increase in overpayments made out of the Fund due to agency error and additional fraud due to shorter timelines for processing claims; in addition, removing one of the required criteria for repayment of overpayments will result in fewer overpayments being recovered.
- This legislation requires chief administrative officer of the Division of Employment to annually increase the weekly unemployment benefit amounts to reflect inflation, as measured by the United States Bureau of Labor Statistics consumer price index or, if that index ceases to exist, another index adopted by such officer.
- In addition, this legislation authorizes such officer to increase unemployment premiums to pay for such increases in unemployment benefits.
- The DLWD did not provide sufficient information to estimate an impact to the Unemployment Trust Fund.
- The amount of any such increase is based upon multiple unknown factors and cannot be determined with reasonable certainty.
- An increase in state expenditures to the General Fund in FY21-22 of $5,961,660 ($5,577,660 + $384,000).
- A recurring increase in state expenditures to the General Fund in FY22-23 and subsequent years of $5,577,660.

IMPACT TO COMMERCE:

Other Fiscal Impact – This legislation will result in an increase in business expenditures in the form of unemployment insurance premiums. Based upon multiple unknown factors, such increase cannot be determined with reasonable certainty.

Assumption:

- This legislation authorizes the DLWD to increase unemployment insurance premiums paid by businesses. Based upon multiple unknown factors and cannot be determined with reasonable certainty.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

/jb